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SENATE

{ REPORT
No. 2023

NORMAN E. DOLE, JR., WILLIAM F. SMITH, JOHN G.
HARRIS, AND JAMES E. CHAMBERLAIN

JULY 1 (legislative day, JUNE 27), 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted
the following

REPORT

[To accompany H. R. 5481]

The Committee on the Judiciary, to which was referred the bill (H. R. 5481) for the relief of Norman E. Dole, Jr., William F. Smith, John G. Harris, and James E. Chamberlain, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to pay to Norman E. Dole, Jr., \$38.55; to William F. Smith, \$45.15; to John G. Harris, \$89.15; and to James E. Chamberlain, \$33.25, such sums in full settlement of all claims of said persons against the United States for compensation for personal property destroyed by fire on September 4, 1950, while they were employed by the Forest Service as fire fighters in the Plumas National Forest, Calif.

STATEMENT

Claimants are employee-fire fighters of the Forest Service, on the Plumas National Forest, Idaho, and make claims for reimbursement for the loss by fire of various items of clothing and personal property, brushes, sleeping bags, razors, soap, etc. The facts reveal that a Forest Service sedan automobile was assigned to Norman E. Dole, Jr., one of the claimants, who was fire sector boss on the Milford fire which occurred on September 4, 1950, in the Plumas National Forest. This vehicle was used by Mr. Dole to transfer the claimants, who were fire fighters on his team, from the fire camp to the fire. The claimants elected to take their personal belongings along with them in the Gov-

ernment car, assuming that the car would be a safer place for their property than if left at the fire camp. On the morning of September 4, 1950, Mr. Dole drove his crew to the fire and parked the vehicle at Honey Lake Mine which was about a mile from the fire line on which he was sector boss. The fire was apparently under control and the place where the car was parked was determined to be a safe area. Mr. Dole then followed his crew to the fire to check and direct their work. However, about 2 o'clock that afternoon, the fire unexpectedly arose, traveling several miles in 15 or 20 minutes, burning about 2,000 acres, including the area where the Government car was parked. The car and contents were completely burned. There was no chance to save the car after the fire had gotten out of control and swept over the fire line. There is no evidence of any negligent or wrongful act or omission on the part of any Government employee. At the time the car containing the belongings of the fire fighters was parked, the area was not considered to be in any danger of contact by the fire, and the fire evidently was under control. Since there is no negligence shown, the claims are not cognizable under the Federal Tort Claims Act which provides for settlement of claims on account of damage caused by negligence of Government employees.

The Department of Agriculture recommends enactment of this legislation. According to the Department of Agriculture's report dated July 20, 1951, there is no specific statute under which these claims may be paid.

A study of the facts by the committee leads to the conclusion that the claims herein set forth are equitable and deserving, and it therefore recommends that the bill H. R. 5481 be considered favorably.

House Report No. 2027 on H. R. 5481, Eighty-second Congress, which contains further data in regard to these claims, is herein included by reference.

